



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

October 19, 2017

BY ECF

Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: United States v. Kaleil Isaza Tuzman, S8 15 Cr. 536 (PGG)

Dear Judge Gardephe:

On September 26, 2017, the Government filed a motion (Dkt. 458) to quash a Rule 17(c) subpoena served on the Bureau of Prisons ("BOP") for certain materials related to Stephen E. Maiden and Robin Smyth, two cooperating witnesses the Government expects to call at trial. Rather than respond to the Government's motion to quash, the defendant instead filed a motion to compel the BOP to produce the materials sought in his Rule 17(c) subpoena. (Dkt. 478, 479) The Government's motion to quash sets forth the facts and law applicable law, including *United States v. Barnes*, 560 F. App'x 36, 40 (2d Cir. 2014), in which the Second Circuit affirmed a well-reasoned decision by the Honorable Judge Denise Cote to quash similar BOP subpoenas because of "a layer of conjecture and speculation that, one, the witnesses after they made a decision to become cooperating witnesses have been concocting stories; and two, that records of email correspondence, tape-recorded phone calls or housing assignments and travel within an institution, records of each of those would somehow be productive of evidence to show this."

For the reasons set forth more fully in the Government's motion, the defendant's BOP subpoena is improper and should be quashed. The defendant's motion to compel should likewise be denied.

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Respectfully submitted,

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